

P 5. (Amended) A smoking material according to claim 4, wherein said non-polyol aerosol generator is present in a range of about 6% to about 15% by weight.

REMARKS

Claims 1, 4-18, 21-27, and 31-34 remain in the application. Claims 4 and 5 have been amended.

The Examiner has objected to claims 4 and 5 under 37 CFR §1.75(c) as being of improper dependent form. Applicants have amended claims 4 and 5 in accordance with the Examiner's suggestion as well as amending the claims to fall within the concentration range for the non-polyol aerosol generator as set forth in claim 1. Therefore, Applicants respectfully request that the Examiner withdraw this objection.

The Examiner has rejected claims 1, 4-15 and 31-34 under 35 USC §103(a) as being unpatentable over Gibson et al (U.S. 3,878,850). Applicants respectfully traverse the Examiner on this ground of rejection.

The instant invention, as claimed, is directed to a smoking material comprising from 6 to 30% by weight of a non-polyol aerosol generator and includes up to 20% by weight of tobacco. A binder at no more than 30% by weight and an inorganic filler at

generator. Moreover, Gibson et al specifically teaches that the smoking article will include at least 50% tobacco in addition to the nicotine fortified smoking mixture which may include a substance which produces acidic matter upon pyrolyses whereas tobacco in the instant claimed invention is at most 20%. Thus, Applicants urge that the instant claimed composition is not taught nor remotely suggested by Gibson et al and particularly in the concentration or ranges set forth in the claims. Therefore, Applicants respectfully request that the Examiner withdraw the rejection.

The Examiner rejects claims 16 and 17 under 35 USC §103(a) as being unpatentable over Gibson et al (U.S. 3,878,850). Applicants respectfully traverse the Examiner on this ground of rejection.

Claims 16 and 17 are dependent claims depending from independent claim 1, specifically claiming a smoking material which includes from 6 to 30% by weight of a non-polyol aerosol generator and no more than 20% by weight of tobacco. Moreover, claims 16 and 17 claim additional additives in the smoking mixture, such as expansion mediums or high oil concentrating materials, as noted by the Examiner. However, as noted previously, Gibson et al teaches a smoking article which is

fortified with nicotine and may include 2.5% glycerol triacetate, and the tobacco will be at least 50% by weight of the entire mixture. Claims 16 and 17 claim that the tobacco will be no more than 20% by weight. Thus, Applicants urge that the instant invention, in accordance with claims 16 and 17, is not taught by Gibson et al and respectfully request that the Examiner withdraw this rejection.

The Examiner rejects claims 18 and 21-24 under 35 USC §103(a) as being unpatentable over Gibson et al (U.S. 3,878,850) in view of Schneider et al (U.S. 5,379,789 and U.S. 4,986,287). Applicants respectfully traverse the Examiner on this ground of rejection.

Claim 18 is directed to a smoking article which includes a first particulate smoking material which is circumscribed by a second particulate smoking material wherein either the first or the second smoking material comprises tobacco, binder, inorganic filler and a non-polyol aerosol generator. In the instant invention the tobacco is claimed as being up to 20% by weight of the blend and the non-polyol generator is from 6 to 30% by weight of the smoking material. As previously discussed, Gibson et al teaches a smoking mixture wherein the tobacco is at least 50% of the blend and in one example, a glycerol triacetate, which is a

known plasticizer, is used at 2.5% by weight. The Examiner cites two Schneider et al references as teaching a smoking article which includes a first smoking material which is circumscribed by a second smoking material. However, neither of the Schneider et al references teach or remotely suggest that the first smoking material or the second smoking material includes a non-polyol aerosol generator in a concentration of from 6 to 30% by weight of the mixture and tobacco at less than 20% by weight of the mixture. Thus, Applicants urge that the instant invention, as claimed in independent claim 18 and claims depending therefrom, is not taught nor remotely suggested by the combination of Gibson et al with the Schneider et al references and respectfully request that the Examiner withdraw this rejection.

The Examiner has rejected claims 25-27 under 35 USC §103(a) as being unpatentable over Gibson et al (U.S. 3,878,850) in view of Schneider et al (U.S. 5,379,789 and U.S. 4,986,287) and in combination with Brown et al (U.S. 5,056,537). Applicants respectfully traverse the Examiner on this ground of rejection.

Independent claim 25 is directed to a smoking article which is comprised of a smokable rod and a filter. The smokable rod includes a non-polyol aerosol generator wherein the non-polyol aerosol generator is from 6 to 30% by weight of smoking material

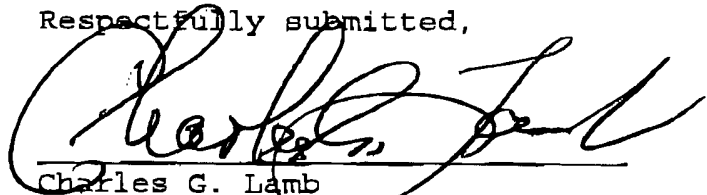
in the smokable rod. As discussed previously, Gibson et al teaches a smoking material which may include a substance to produce acidic matter in the smoking material and exemplifies this substance as a glycerol triacetate. However, this acidic matter producing substance is at a level of 2.5% as set forth in Example 4 of Gibson et al. Nowhere does Gibson et al teach or remotely suggest the use of glycerol triacetate as a non-polyol aerosol generator and does not recognize that the glycerol triacetate is used for such a function. Moreover, nowhere does either Schneider et al reference or Brown et al teach or remotely suggest the instant smoking material including the aerosol generating material which is a non-polyol from 6 to 30% by weight of the smoking material. The Schneider et al references teach a filter in a smoking rod wherein the smoking rod includes a first smoking material circumscribed by a second smoking material and neither of the first nor second smoking materials includes a non-polyol aerosol generating compound much less such a compound in the mixture being from 6 to 30% by weight. Furthermore, the Brown et al reference is cited as teaching a filter which includes a polyhydric alcohol to impart flexibility to the filter material. Brown et al does not teach nor remotely suggest the unique smokable tobacco material of the instant invention which includes a non-polyol aerosol generating compound, as now claimed. Thus,

Applicants urge that the instant invention, in accordance with independent claim 25 and dependent claims 26 and 27 are not taught nor remotely suggested by the combination of references cited by the Examiner and respectfully request that the Examiner withdraw this rejection.

Attached hereto is a marked up version of the changes made to the claims by the current amendment. The attached is captioned "Versions of Markings to Show Changes Made".

Applicants respectfully request that a timely Notice of Allowance be issued in this case. However, if the Examiner believes there are other unresolved issues in this case, Applicants' attorney of record would appreciate a call at (502) 584-1135 to discuss such remaining issues.

Respectfully submitted,



Charles G. Lamb
MIDDLETON REUTLINGER
2500 Brown & Williamson Tower
Louisville, Kentucky 40202
(502) 584-1135
Reg. No. 24,783

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"Versions of Markings to Show Changes Made"

Please amend claim 4 as follows:

4. (Amended) A smoking material according to claim [3] 1 wherein said non-polyol aerosol generator is present in a range of about [5%] 6% to about 20% by weight.

Please amend claim 5 as follows:

5. (Amended) A smoking material according to claim 4, wherein said non-polyol aerosol generator is present in a range of about [5%] 6% to about 15% by weight.